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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,280	03/23/2004	Philip Feldman	2217.0007CIP	1846
27896 7590 01/25/2008 EDELL, SHAPIRO & FINNAN, LLC 1901 RESEARCH BOULEVARD SUITE 400 ROCKVILLE, MD 20850			EXAMINER LIM, SENG HENG	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 01/25/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/806,280	Applicant(s) FELDMAN ET AL. CT	
	Examiner Seng H. Lim	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/24/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zillig et al (US 2004/0097331 A1) in view of Price (US 6406408 B1) and Knox et al (US 2003/0033885 A1).

Re Claims 1-5, 7-11, 18, 20-32, 39, 41-43. Zillig et al discloses a method and support structure for enabling interactions with a gaming application comprising an adjustable rod secured to a base, wherein the game controller, including a plurality of individually manipulable input devices to interact with said gaming application, is directly attached to an upper portion of the rod and the rod includes dimensions sufficient to support said game controller above the base and in a position enabling the user to operate said game controller in said standing position (Fig. 9; para. 0012, 0063).

Zillig et al does not disclose a support structure for enabling interactions with a gaming application comprising a base in the form of a platform, including gripping surface to accommodate user feet, to directly support a user thereon in a standing position; and a body support including an adjustable post secured to said base to support a lower body portion of said user in said standing position.

Price discloses a support structure for enabling interactions with a gaming application comprising a base in the form of a platform, including gripping surface to accommodate user feet, to directly support a user thereon in a standing position (46, Fig. 1); and a body support including an adjustable post secured to said base to support a lower body portion of said user in said standing position (46, 48: Fig. 1 & 15A, 492: Fig. 15B). Zillig et al and Price are analogous art because they are from the same field of endeavor of incorporating exercise with gaming. At the time of invention a person of ordinary skill in the art would have found it obvious to combine the structure of Zillig et al and Price to retrofit existing exercise machine and would have been motivated to do so to work out other parts of the body while enjoying a game.

Zillig et al does not specifically disclose the rod providing an isometric exercise for the user and including a sensor coupled at a selected location on the rod to measure a force applied by the user to the rod and game controller, and wherein the applied force effects a measurable strain on the rod. However, as stated in applicant arguments/remarks made in an amendment file on October 24, 2007, page 15, third paragraph, "isometric exercise typically involves the exertion of force by a user against an object that significantly resists movement as a result of the exerted force such that there is substantially minimal or no movement of the user's muscles during the force exertion. Examples of simple forms of isometric exercise include pushing against a stationary surface (e.g., a doorframe or a wall)." It would have been obvious that a user may perform isometric exercise with Zillig et al's structure by exerting force on to the rod, wherein the rod typically resists movement such that there is substantially minimal or no movement of the user's muscles during the force exertion. With that in mind, it is well known to have a microstrain/strain gauge sensor usable to measure deformation in

any application that exerts force (as evidence by Knox et al, para. 0002 & 0005). At the time of invention a person of ordinary skill in the art would have found it obvious to incorporate the sensor to Zillig et al's rod in order to measure any force being applied to the rod.

Re Claims 12-17, 19, 33-38, 40. Zillig et al disclose a processor including a data processing module to receive and process data corresponding to information measured by the at least one sensor, wherein said data processing module produces information in a format resembling data output from a gaming application peripheral to facilitate user interaction with said gaming application in response to a force applied by the user (para. 0013,-0014). The computer can also calculate information, such as, for example, time, distance, velocity, and calorie consumptions, and can display that information on a display with this the exercise machine is equipped (para. 0013).

Zillig et al does not disclose determining an amount of work applied by the user; however, that would have been an obvious variation to include in Zillig et al's machine since work is defined as force times distance.

Zillig et al also disclose the use of the force input to control a video game (para. 0013-0014). For example, in order to control a car's speed, a bicycle or a set other vehicle may be used by adjusting an amount of force and speed applied by the user. The paddling of the bicycle is a form of isokinetic exercise by the user.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached USPTO form PTO-892.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seng H. Lim whose telephone number is 571-270-3301. The examiner can normally be reached on 8:30-6:00, Monday-Friday, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SHL

January 18, 2008



XUAN M. THAI
SUPERVISORY PATENT EXAMINER